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**DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

**Docket No. 12-57
SANJAY TRIVEDI, M.D.
DECISION AND ORDER**

On September 25, 2012, Administrative Law Judge (ALJ) Gail A. Randall issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended Order.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FT0896754, issued to Sanjay Trivedi, M.D., be, and it hereby is, revoked. I further order that any pending application of Sanjay Trivedi, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.¹

Dated: January 25, 2013

Michele M. Leonhart
Administrator

¹ For the same reason I ordered that Respondent's registration be immediately suspended, I conclude that the public interest necessitates that this Order be effective immediately. *See* 21 CFR 1316.67.

Michelle F. Gillice, Esq., for the Government
Matthew R. Kachergus, Esq., for the Respondent

**RECOMMENDED RULINGS, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

1. FACTS

Gail A. Randall, Administrative Law Judge. The Administrator, Drug Enforcement Administration (“DEA” or “Government”), issued an Order to Show Cause and Immediate Suspension of Registration (“Order”) dated June 25, 2012, proposing to revoke the DEA Certificate of Registration, No. FT0896754, of Sanjay Trivedi, M.D. (“Respondent”), as a practitioner, pursuant to 21 U.S.C. § 824(a)(4) (2006), and deny any pending applications for renewal or modification of such registration pursuant to 21 U.S.C. § 823(f) (2006), because the continued registration of the Respondent would be inconsistent with the public interest, as that term is used in 21 U.S.C. § 823(f). The Respondent’s registration will expire by its own terms on November 30, 2013.

Specifically, the Order alleged that the Respondent dispensed at least 226,752 dosage units of controlled substance prescriptions between April 24, 2011, and April 25, 2012. [Order at 2]. The Order alleged that the controlled substances most frequently prescribed during the year time period were: oxycodone 30mg; hydrocodone/apap 10-500mg; and oxycodone/apap 10-325mg. [*Id.*]. The Order further alleged that the Respondent prescribed controlled substances to undercover law enforcement officers between October and November 2011 in violation of Federal, State, and local law because the prescriptions were not for a legitimate medical purpose. [*Id.* 2-3]. Additionally, the Order alleged that the Respondent prescribed excessive and unnecessary doses of controlled substances to the undercover law enforcement officers without a

clinical basis to do so, without conducting adequate physical examinations, without providing legitimate referrals for evaluations, and without giving proper attention to the possibility of misuse or diversion of controlled substances. [*Id.* at 3]. Lastly, the Order alleged that the Respondent is involved in a conspiracy in which controlled substances are prescribed to patients throughout the state of Florida without a legitimate medical purpose. [*Id.* at 4].

On July 27, 2012, the Respondent, through counsel, filed a letter with the Court requesting an extension of time (“Respondent’s Request”) to respond to the Order to Show Cause. [Respondent’s Request at 1]. Specifically, the Respondent requested that in order to properly respond to the Order to Show Cause, the Respondent needed to obtain the patient records at issue and these records had been seized by law enforcement in conjunction with the criminal prosecution. [*Id.*].

On July 30, 2012, the Court issued an Order Granting Respondent’s Request for Extension of Time (“Court’s Order”). Therein, the Court found that the Respondent had demonstrated good cause to justify granting a thirty-day extension of time to respond to the Order to Show Cause. [Court’s Order at 1].

On August 31, 2012, the Respondent, through counsel, filed a letter with the Court requesting an extension of time (“Respondent’s Second Request”) to respond to the Order to Show Cause. [Respondent’s Second Request at 1]. Specifically, the Respondent explained that he needed additional time to respond to the Order to Show Cause because the requested patient files at issue in the above-captioned matter had not yet been received since law enforcement had seized the records in conjunction with the criminal prosecution. [*Id.*]. That same day, the Court issued an Order Granting Respondent’s Request for Extension of Time (“Court’s Second Order”). Therein, the Court found that Respondent had demonstrated good cause to justify

granting a second brief extension of time. [Court's Second Order at 2]. The Court ordered that the Respondent must clearly indicate his desire for a hearing on or before September 7, 2012. [*Id.*].

On September 7, 2012, the Respondent, through counsel, timely filed a Request for Hearing in the above-captioned matter.

On September 10, 2012, the Government filed a Motion for Summary Disposition and Motion to Stay Proceedings ("Government's Motion"). Therein, the Government requested that the Court summarily revoke Respondent's DEA registration because the Respondent's Florida state medical license is under an emergency suspension order. [Government's Motion at 1]. The Government stated that the Respondent was no longer authorized to handle controlled substances in Florida, the state where the Respondent is registered with the DEA. [*Id.* at 1-2]. The Government attached to its motion, a State of Florida Department of Health Order of Emergency Suspension of License ("Emergency Suspension"), filed June 27, 2012, in which the State of Florida Department of Health ordered the emergency suspension of the Respondent's license. [Government's Motion at Exhibit A]. The Government argues, therefore, that in accordance with Agency precedent, the DEA is barred by statute from continuing the Respondent's registration because his state medical license was suspended. [*Id.* at 1-2].

On September 11, 2012, the Court issued an Order for Prehearing Statements and an Order for Respondent's Response to Government's Motion for Summary Disposition and to Stay Proceedings.

On September 19, 2012, the Respondent, through counsel, filed Respondent's Response to Motion for Summary Disposition and Motion to Stay Proceedings and Request for Extension of Time for Further Response ("Respondent's Response"). Therein, the Respondent argues that

the Court should grant him a thirty-day extension to respond to the Government's Motion because the Respondent is currently involved in settlement negotiations with the Florida Department of Health in which his Florida medical state license will be restored. [Respondent's Response at 1-3].

On September 19, 2012, the Government filed Government's Reply to Respondent's Response to Motion for Summary Disposition and Motion to Stay Proceedings and Request for Extension of Time for Further Response ("Government's Reply"). Therein, the Government argues that the only due process that need be afforded to the Respondent is an "opportunity to oppose a motion for summary disposition by showing that his state authority has not been suspended or revoked." [Government's Reply at 1]. The Government further argues that because there has not been a showing that Respondent's state license is valid, the Respondent currently lacks state authority to handle controlled substances and thus, the Respondent cannot remain registered by the DEA. [*Id.* at 2].

For the reasons set forth below, I will grant the Government's Motion and recommend that the Administrator revoke the Respondent's DEA Certificate of Registration. But, I note that, pursuant to 21 C.F.R. §1301.13(a) (2012), the Respondent may apply for a new DEA Certificate of Registration at any time.

II. DISCUSSION

A. Respondent Currently Lacks Authority To Handle Controlled Substances In Florida.

The DEA will not maintain a controlled substances registration if the registrant is without state authority to handle controlled substances in the state in which the registrant practices. The Controlled Substances Act ("CSA") provides that obtaining a DEA registration is conditional on

holding a state license to handle controlled substances. *See* 21 U.S.C. § 802(21) (2006) (defining “practitioner” as “a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice”); 21 U.S.C. § 823(f) (2006) (“the Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices”). The DEA, therefore, has consistently held that the CSA requires the DEA to revoke the registration of a practitioner who no longer possesses a state license to handle controlled substances. *See* 21 U.S.C. § 824(a)(3) (2006) (stating “a registration may be suspended or revoked by the Attorney General upon a finding that the registrant has had his State license or registration suspended, revoked or denied by competent State authority”); *Beverley P. Edwards, M.D.*, 75 Fed. Reg. 49,991 (DEA 2010); *Joseph Baumstarck, M.D.*, 74 Fed. Reg. 17,525 (DEA 2009).

In this case, the Respondent does not dispute that he currently lacks state authority to handle controlled substances. However, the Respondent argues that his current state medical license suspension is temporary, as he and the Florida Department of Health are currently involved in settlement negotiations in which he anticipates that he will regain his Florida medical license. [Respondent’s Response at 1-3]. Respondent argues that his DEA registration should not be revoked because he will soon likely regain his state medical license in the state of Florida. [*Id.* at 2-3]. However, the Emergency Suspension from the Florida Department of Health effectively suspends the Respondent’s license to practice medicine in the state of Florida. Regardless of whether the Respondent and the Florida Department of Health eventually decide upon a settlement agreement in which the Respondent’s state license is reinstated, the Respondent currently lacks the necessary state authority to practice medicine and handle

controlled substances in Florida. Consequently, his DEA registration must be revoked. *See Joseph Baumstarck, M.D.*, 74 Fed. Reg. 17,525, 17,527 (DEA 2009) (stating that “a practitioner may not maintain his DEA registration if he lacks state authority to handle controlled substances under the laws of the state in which he practices”); *Treasure Coast Specialty Pharmacy*, 76 Fed. Reg. 66,965 (DEA 2011); *Roy Chi Lung, M.D.*, 74 Fed. Reg. 20,346 (DEA 2009); *Gabriel Sagun Orzame, M.D.*, 69 Fed. Reg. 58,959 (DEA 2004).

While the Respondent argues that his state license may be reinstated in the future, this possibility is immaterial in light of the Respondent’s current lack of state registration. Indeed, the CSA and Agency precedent make clear that as a prerequisite to registration the Respondent must have state authority to handle controlled substances, and that without such authority all other issues before this forum are moot. *See* 21 U.S.C. § 802(21); 21 U.S.C. § 823(f); *Joseph Baumstarck, M.D.*, 74 Fed. Reg. at 17,527 (DEA 2009). Thus, because there is no dispute that the Respondent lacks state authority to handle controlled substances, the Respondent’s registration must be revoked.

B. Respondent is Entitled to Reapply for Registration with the DEA.

Any person who is required to register with the DEA may apply for registration at any time. 21 C.F.R. § 1301.13(a) (2012) (“Any person who is required and who is not registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Administrator to such person”).

The Respondent is permitted to reapply for a Certificate of Registration with the DEA at any time in the future. 21 C.F.R. § 1301.13(a). However, the Respondent will not be permitted to engage in activity for which a registration is required until his application is granted by the

DEA. *Id.*

III. CONCLUSION, ORDER, AND RECOMMENDATION

Consequently, there is no genuine dispute of material fact regarding the Respondent's lack of state authority to handle controlled substances. Thus, summary disposition for the Government is appropriate. It is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. *See Michael G. Dolin, M.D.*, 65 Fed. Reg. 5,661 (DEA 2000). Here, there is no genuine dispute that the Respondent currently lacks state authority to practice medicine and to handle controlled substances in Florida.

Accordingly, I hereby

GRANT the Government's Motion for Summary Disposition.

I also forward this case to the Administrator for final disposition. I recommend that the Respondent's DEA Certificate of Registration, Number FT0896754, be revoked.²

Date: September 25, 2012

s/ Gail A. Randall
Administrative Law Judge

² The sole basis of my recommendation is the loss of Respondent's state licensure. I make no findings or conclusions concerning the other allegations asserted in the Order to Show Cause.

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